

# COMPENSATION REVIEW TABLE OF CONTENTS

<a href="#"><u>General Information for All Reporting Methods</u></a> .....	70
<a href="#"><u>Employers Paying Member Contributions</u></a> .....	80
<a href="#"><u>EPMC Sample A</u></a> .....	86
<a href="#"><u>EPMC Sample B</u></a> .....	87
<a href="#"><u>EPMC Sample C</u></a> .....	88
<a href="#"><u>EPMC Sample D</u></a> .....	89
<a href="#"><u>EPMC Sample E</u></a> .....	90
<a href="#"><u>EPMC Sample F</u></a> .....	92
<a href="#"><u>Compensation Limits</u></a> .....	94

*The information provided in this publication is for your convenience and reference as a general guide only and cannot be relied upon as an authoritative source for the law, practices, or policies of CalPERS. While CalPERS tries to include only accurate, timely and complete information in its publications, summaries, guidelines and other advisory printed materials, sometimes information provided in printed materials may be or become inaccurate, untimely, incomplete, unclear or misleading. In all instances, the law then in effect, not this publication, controls the application of the Public Employees' Retirement Law. It is the reader's responsibility to independently verify the accuracy of the information contained in this publication before engaging in a course of action.*

## GENERAL INFORMATION FOR ALL REPORTING METHODS

### REPORTABLE/NON-REPORTABLE COMPENSATION

#### CALPERS COMPENSATION

Pay rate and special compensation must be in written schedules, ordinances, or similar documents that are available for public scrutiny.

California G.C. sections 20630 and 20636 define compensation earnable, pay rate and special compensation as follows:

#### COMPENSATION (G.C. SECTION 20630)

Compensation is broadly defined as payment to employees for services performed during normal working hours or for time during which the employee is excused from work because of holidays, sick leave, industrial disability, (payments under Labor Code Section 4800, 4850 or Education Code Section 44043, 87042) vacation, compensatory time off or leave of absence.

The employer shall identify and report compensation for the pay period in which the compensation was "earned" regardless of when paid.

#### WORKERS' COMPENSATION TEMPORARY DISABILITY AND INDUSTRIAL DISABILITY LEAVE PAYMENTS

#### WHAT IS REPORTABLE TO CALPERS?

G.C. section 20630 of the PERL defines "Compensation" as: "... the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of: holidays; sick leave; industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code or Article 4 (commencing with Section 19869 of Chapter 2.5 of Part 2.6; or Education Code Section 44043, 87042) vacation; compensatory time off; or leave of absence. . ."

Labor Code Section 4850 included in the definition above, contains industrial disability leave provisions for various specified safety members of CalPERS. This pay is reportable to CalPERS. Education Code Section 44043

or 87042 contains industrial disability leave provisions for employees of the Superintendent of Schools. This compensation may also be reported to CalPERS.

Workers' Compensation temporary disability payments in lieu of Workers' Compensation that are not pursuant to the above mentioned law codes are not reportable to CalPERS. However, if a miscellaneous member uses accrued leave credits such as vacation, sick leave or compensated time off (CTO) the compensation attributable to the used leave credits are reportable to CalPERS.

#### COMPENSATION EARNABLE (G.C. SECTION 20636 AND G.C. SECTION 20636.1)

The pay rate and special compensation of members is further defined below.

#### PAY RATE

"Pay rate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. For purposes of this part, for classified school members, full-time employment is 40 hours per week, and payments for services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed. "Pay rate," for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e) of G.C. section 20636.

#### SPECIAL COMPENSATION

Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement to similarly situated members of a group or class of employment and is reported in addition to and separately from pay rate. Special compensation is delineated specifically and exclusively in the regulations adopted in the **California Code of Regulations (CCR) Section 571 (a) and (b)**. Subsection 'b' specifies the standards that all special compensation items must meet.

A complete reprint of CCR 571 (a) and 571 (b) are on the following pages.

Only those items listed in the CCR 571 (a) and meeting the criteria listed in CCR 571 (b) are reportable. If the special compensation item is not included in the exclusive list, it is not reportable for retirement purposes.

- All special compensation is required to be reported separately from pay rate as special compensation, as it is earned.
- Do not report special compensation prospectively, it must be reported for the pay period in which it was earned.
- Special compensation shall be for services rendered during normal working hours, and when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

Special compensation does not include final settlement pay, payments made for additional services rendered outside normal working hours and any other payments the CalPERS Board of Administration has not affirmatively determined to be special compensation.

Final settlement pay means any pay or cash conversions of employee benefits in excess of compensation earnable, that are granted or awarded to a member in connection with or in anticipation of a separation from employment.

Final settlement pay may consist of severance pay or so called “golden parachutes”. It may be based on accruals over a period of prior service. It is generally, but not always, paid during the period of final compensation. It may be paid in either lump sum, or periodic payments.

Final settlement pay may also take the form of a bonus, retroactive adjustment to pay rate, conversion of special compensation to pay rate, or any other method of payroll reported to CalPERS.

#### GROUP OR CLASS OF EMPLOYMENT

Group or class of employment means a number of employees considered together because they share job similarities, work location, collective bargaining unit, or other logical work related grouping.

#### COMPENSATION PAID TO COURT REPORTERS

Report compensation for Court Reporters who qualify for CalPERS membership, i.e., those who serve half-time or more. Numerous statutes and a variety of payment methods prevent CalPERS from formulating standard reporting procedures for Court Reporters. Separate instructions are provided to the individual counties. Contact the Compensation Review Unit for further information.

#### COMPENSATION EARNABLE FOR PART-TIME SERVICE (G.C. SECTION 20967)

For the purpose of calculating retirement benefits based on part-time service, except under G.C section 21381, compensation earnable shall be taken as the compensation that would have been earnable if the employment had been on a full-time basis and the member had worked full time, and shall conform to the definitions given in G.C section 20636.1 for school members and G.C. section 20636 for all other members.

#### CALIFORNIA CODE OF REGULATIONS

Special compensation items must meet definitions listed in 571 (a) as well as the criteria outlined in 571(b) to be reported to CalPERS.

#### 571 (a) — DEFINITION OF SPECIAL COMPENSATION

(a) The following list exclusively identifies and defines special compensation items for members employed by contracting agencies and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement.

##### (1) INCENTIVE PAY

**Bonus** — Compensation to employees for superior performance such as “annual performance bonus” and “merit pay.” If provided only during a member’s final compensation period, it shall be excluded from the final compensation as “final settlement” pay. A program or system must be in place to plan and identify performance goals and objectives.

##### **Dictation/Shorthand/Typing Premium** —

Compensation to clerical employees for short hand, dictation or typing at a specified speed.

**Longevity Pay** — Additional compensation to employees who have been with an employer, or in a specified job classification, for a certain minimum period of time exceeding five years.

**Management Incentive Pay** — Compensation granted to management employees in the form of additional time off or extra pay due to the unique nature of their job. Employees within the group cannot have the option to take time off or receive extra pay. This compensation must be reported periodically as earned and must be for duties performed during normal work hours. This compensation cannot be for overtime, nor in lieu of other benefits excluded under the statutes, nor for special compensation not otherwise listed in section 571.

**Marksmanship Pay** — Compensation to local police officers, county peace officers and school police or security officers who meet an established criterion, such as, “certification” as a marksperson.

**Master Police Officer** — Compensation to local police officers, county peace officers and school police or security officers who meet specified requirements, years of employment, performance standards, education, Peace Officer Standard Training (POST), and perform a specialty assignment.

**Physical Fitness Program** — Compensation to local safety members and school security officers who meet an established physical fitness criterion.

#### **Value of Employer-Paid Member**

**Contributions (EPMC)** — The full monetary value of employer-paid member contributions (EPMC) paid to CalPERS and reported as an item of special compensation on behalf of all members in a group or class.

The value of EPMC is calculated on all “compensation earnable” excluding the special compensation of the monetary value of EPMC paid to CalPERS by the employer under G.C. section 20636(c)(4) thus eliminating a perpetual calculation.

A. A resolution or ordinance of the governing body must be provided to CalPERS indicating the group or class, effective date, and the percent or amount of EPMC being paid and reported as an item of special compensation. The resolution or ordinance must be formally adopted by the employer’s governing body, and submitted to CalPERS for review and approval.

- B. The resolution or ordinance must specify that the value of EPMC will be reported as an item of special compensation consistently, for all members in the affected group or class of employment — except that the employer’s governing body may elect a “time-in-grade exception” which shall only apply to persons newly hired into the pertinent group or class of employment.
- C. To be classified as “newly-hired”, a member of the group or class must not have been previously hired or retained by the employer in any capacity whatsoever.
- D. The time-in-grade exception must be elected in the same resolution or ordinance, or by amendment thereto, as adopted by the employer’s governing body for the purpose of paying and reporting the value of EPMC, pursuant to the California Code of Regulations (CCR) Section 571. The exception can only be used for the value of EPMC, and not for any other item of special compensation.
1. The time-in-grade exception must be applied consistently to all newly-hired employees in the pertinent group or class.
  2. The time-in-grade requirement may be incremental, not to exceed a total of five (5) years. For example, the initial requirement may be three years for paying fifty percent (50%) with increases of twenty-five percent (25%) for each additional year of time-in-grade.
  3. Once the initial time-in-grade requirement has been met by a newly-hired employee, the employer shall begin paying and reporting the value of EPMC for him or her to the same extent as for all others in the pertinent group or class.
- E. To implement the time-in-grade exception, the employer’s governing body must acknowledge that it may experience an upward adjustment to its employer contribution rate. The acknowledgment must be included in the resolution or ordinance by which the employer’s governing body elected to pay and report EPMC as an item

of special compensation, by adoption or amendment thereto.

- F. The full terms of the resolution or ordinance by which the employer's governing body elects to pay and report the value of EPMC as an item of special compensation — along with any time-in-grade exception for newly-hired employees — must be incorporated into the written labor agreement that pertains to the affected group or class of employment.

The time-in-grade exception from paying and reporting the value of EPMC as an item of special compensation pursuant to CCR Section 571, is separate and apart from the time-in-grade exception from paying EPMC pursuant to CCR Section 569. Both of these exceptions are separate and apart from, nor do they apply to, the process for converting EPMC to pay rate during the period of final compensation, pursuant to Section 20692 of the Government Code.

**Off-Salary-Schedule Pay** — Compensation in addition to base salary paid in similar lump-sum amounts to a group or class of employees. These payments are routinely negotiated through collective bargaining in lieu of increases to the salary schedule. These payments are based on a similar percent of scheduled salary not to exceed six percent (6%) per fiscal year. The contracting agency or school employer may adopt similar action for non-represented groups or classes of employment as were negotiated through collective bargaining.

## (2) EDUCATIONAL PAY

The items of special compensation outlined below do not include reimbursement to an employee for the cost of an application or test, books, tuition or travel.

**Applicator's Differential** — Compensation to employees who are required to maintain a Qualified Pesticide Applicator's Certificate.

**Certified Public Accountant Incentive** — Compensation to miscellaneous employees passing an exam and receiving a license as a Certified Public Accountant.

**Educational Incentive** — Compensation to employees for completing educational courses, certificates and degrees which enhance their ability to do their job.

A program or system must be in place to evaluate and approve acceptable courses. The cost of education that is required for the employee's current job classification is not included in this item of special compensation.

**Emergency Medical Technician Pay** — Compensation to safety employees who obtain and maintain an emergency medical technician (EMT) certification.

**Engineering Registration Premium** — Compensation to engineers who have taken and passed a California engineering proficiency exam and are registered with the State of California.

**Government Agency Required Licenses** — Compensation to employees receiving and maintaining a license required by government or regulatory agencies to perform their duties.

**International Conference of Building Officials (ICBO) Certificate** — Compensation to building inspectors who obtain and maintain an International Conference of Building Officials (ICBO) certificate in one or more certified areas.

**Mechanical Premium (Brake Adjustment License, SMOG Inspector License)** — Compensation to employees who obtain and maintain state-required mechanical licenses.

**National Institute of Automotive Service Excellence (NIASE) Certificate** — Compensation to mechanics who obtain and maintain a National Institute of Automotive Service Excellence (NIASE) certificate.

**Notary Pay** — Compensation to clerical employees who obtain and maintain a notary public certificate from the State of California or are deputized by an agency's chief administrative officer to sign legal or financial documents for the agency.

**Paramedic Pay** — Compensation to employees who obtain and maintain certification in auxiliary medical techniques.

**Peace Officer Standard Training (POST) Certificate Pay** — Compensation to local police officers, county peace officers and school police or security officers who obtain Peace Officer Standard Training (POST) certification.



**Reading Specialist Premium —**

Compensation to certificated employees who have obtained special training and provide literacy instruction as part of their teaching duties.

**Recertification Bonus —** Compensation to local firefighters who obtain and maintain a fire safety and prevention certificate for a specified period of time.

**Special Class Driver's License Pay —**

Compensation to school bus drivers or street maintenance employees who are required to obtain and maintain a special class driver's license to perform their duties.

**Undergraduate/Graduate/Doctoral Credit —**

Compensation to school district employees who are required to obtain a specified degree.

**(3) PREMIUM PAY**

**Temporary Upgrade Pay —** Compensation to employees who are required by their employer, or governing board or body, to work in an upgraded position/classification of limited duration.

**(4) SPECIAL ASSIGNMENT PAY**

**Accountant Premium —** Compensation to rank and file employees who are routinely and consistently responsible for developing the employer's budget.

**Administrative Secretary Premium —**

Compensation to an administrative secretary responsible for coordinating meetings, plans and other specialized activities for the governing board of the contracting agency or school employer.

**Aircraft/Helicopter Pilot Premium —**

Compensation to safety employees who are routinely and consistently assigned as aircraft/helicopter pilots.

**Asphalt Work Premium —** Compensation to miscellaneous employees who are routinely and consistently assigned to mix, transport and/or apply a tar-like substance for sidewalks, roads, roofs and/or parking lots.

**Audio Visual Premium —** Compensation to miscellaneous employees who are routinely and consistently responsible for operating audio visual equipment.

**Auditorium Preparation Premium —**

Compensation to school employees who are routinely and consistently assigned to prepare auditorium(s), i.e. setting up stages, lighting, props and chairs for performing arts purposes.

**Bilingual Premium —** Compensation to employees who are routinely and consistently assigned to positions requiring communication skills in languages other than English.

**Branch Assignment Premium —**

Compensation to employees who are routinely and consistently assigned to a branch office or work site that is identified as "rural" or "remote" in the written labor agreement.

**Canine Officer/Animal Premium —**

Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to handle, train and board a canine or horse. Compensation shall not include veterinarian fees, feed or other reimbursable expenses for upkeep of the animal.

**Cement Finisher Premium —** Compensation to miscellaneous employees who are routinely and consistently assigned to finish cement work, e.g. watering, brushing or surfacing.

**Circulation Librarian Premium —**

Compensation to library staff who are routinely and consistently assigned to the circulation desk of the library.

**Computer Operations Premium —**

Compensation to employees who have special knowledge of computer processes and applications.

**Confidential Premium —** Compensation to rank and file employees who are routinely and consistently assigned to sensitive positions requiring trust and discretion.

**Contract Administrator Coordinator**

**Premium —** Compensation to school employees who routinely and consistently coordinate administrative contracts for instruction or facility maintenance.

**Crime Scene Investigator Premium —**

Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to analyze and explore a crime scene.

**Critical Care Differential Premium —**

Compensation to nursing staff who are routinely and consistently assigned to critical and intensive medical or psychological care areas.

**D.A.R.E. Premium —** Compensation to local police officers, county peace officers and school police or security officers who routinely and consistently provide training to students on drug abuse resistance.

**Detective Division Premium —** Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to a detective or investigative division or intelligence duties.

**Detention Services Premium —** Compensation to employees who are routinely and consistently assigned to areas where criminally charged persons are confined and nursing staff who are routinely and consistently assigned to an adult facility where criminally charged persons are confined.

**DUI Traffic Officer Premium —** Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce Driving Under the Influence (DUI) of alcohol or drug laws.

**Extradition Officer Premium —** Compensation to local police officers and county peace officers who are routinely and consistently assigned to return a person to the custody of another jurisdiction.

**Fire Inspector Premium —** Compensation to “fire inspector” personnel who are routinely and consistently assigned to inspect buildings and other permanent structures for compliance with governmental safety standards.

**Fire Investigator Premium —** Compensation to “fire investigation” personnel who are routinely and consistently assigned to investigate causes of destructive burning.

**Fire Prevention Assignment Premium —** Compensation to rank and file local firefighters who are routinely and consistently assigned to specific fire inspections and investigative work during normal hours of employment that may differ from the work schedule of fire suppression personnel.

**Fire Staff Premium —** Compensation to rank and file local firefighters who are routinely and consistently assigned to administrative work during normal hours of employment that may differ from the work schedule of fire suppression personnel.

**Flight Time Premium —** Compensation to safety employees for time spent as co-pilot or crew on work related air missions.

**Float Differential Premium —** Compensation for nurses not specifically assigned to a specific station.

**Front Desk Assignment (Jail) —** Compensation to employees staffing a jail who are routinely and consistently assigned the duty of responding to questions from the public.

**Fugitive Officer Premium —** Compensation to local police and county peace officers who are routinely and consistently assigned to pursue persons who have or are fleeing from justice.

**Gang Detail Assignment Premium —** Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce laws relating to a group of individuals banded together for unlawful activities.

**Grading Assignment Premium —** Compensation to employees who are routinely and consistently assigned to inspect the degree of rise or descent of a sloping surface.

**Hazard Premium —** Compensation to employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances or perform hazardous activities to implement health or safety procedures.

**Heavy/Special Equipment Operator —** Compensation to employees who are routinely and consistently assigned to operate heavy equipment or specialized equipment.

**Height Premium —** Compensation to employees who are routinely and consistently required to work on ladders or mechanical devices at heights over 40 feet.

**Housing Specialist Premium** — Compensation to city housing specialists who are routinely and consistently assigned to perform administrative functions of the housing division.

**Juvenile Officer Premium** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to enforce laws that restrict the activities of juveniles.

**Lead Worker/Supervisor Premium** — Compensation to employees who are routinely and consistently assigned to a lead or supervisory position over other employees subordinate classifications, or agency-sponsored program participants.

**Library Reference Desk Premium** — Compensation to library staff who are routinely and consistently assigned to provide direction or resources to library patrons.

**Maintenance Premiums:**

**Gas Maintenance Premium** — Compensation to maintenance employees who are routinely and consistently assigned to inspect gas construction, repair instruments or perform pipeline welder duties.

**Plumber Irrigation System Premium** — Compensation to plumbers who are routinely and consistently assigned as irrigation systems plumbing specialists.

**Refuse Collector Premium** — Compensation to maintenance employees who are routinely and consistently assigned to collect refuse.

**Street Lamp Replacement Premium** — Compensation to maintenance employees who are routinely and consistently assigned to replace street lamps from an aerial bucket.

**MCO Instructor Premium** — Compensation to miscellaneous employees who are routinely and consistently assigned to train Motor Coach Operators, i.e. bus drivers.

**Motorcycle Patrol Premium** — Compensation to local police officers and county peace officers who are routinely and consistently assigned to operate and/or patrol on motorcycle.

**Mounted Patrol Premium** — Compensation to local police officers and county peace officers

who are routinely and consistently assigned to patrol on horseback.

**Narcotic Division Premium** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to drug enforcement.

**Paramedic Coordinator Premium** — Compensation to paramedics who are routinely and consistently assigned to coordinate training activities in auxiliary medical techniques.

**Park Construction Premium** — Compensation to groundskeepers who are routinely and consistently assigned to build park equipment.

**Park Maintenance/Equipment Manager Premium** — Compensation to park maintenance employees who are routinely and consistently assigned to equipment management and other administrative duties.

**Parking Citation Premium** — Compensation to employees who are routinely and consistently assigned to read parking meters and cite drivers who have violated parking laws.

**Patrol Premium** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to patrol detail.

**Police Administrative Officer** — Compensation to rank and file police officers, county peace officers and school police or security officers who are routinely and consistently assigned to police administration to provide support for the police chief and command staff in the operation of the police department.

**Police Investigator Premium** — Compensation to rank and file local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to analyze crimes or investigate accidents.

**Police Liaison Premium** — Compensation to rank and file local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to function as a liaison between special persons, groups or courts and the police/sheriff department.



**Police Polygraph Officer** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to administer and interpret polygraph exams.

**Police Records Assignment Premium** — Compensation to employees who are routinely and consistently assigned to the police records division.

**Rangemaster Premium** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to supervise the target range facilities and all related activities.

**Refugee Arrival Cleanup Premium** — Compensation to employees who are routinely and consistently assigned to cleanup from activities directly related to refugee arrival flights.

**Safety Officer Training/Coordinator Premium** — Compensation to employees who are routinely and consistently assigned to instruct personnel in safety procedures.

**Sandblasting Premium** — Compensation to miscellaneous employees who are routinely and consistently assigned to operate sandblasting equipment.

**School Yard Premium** — Compensation to part-time school district employees who are routinely and consistently assigned to supervise students during recreation.

**Search Pay Premium** — Compensation to employees who are routinely and consistently assigned to search and process prisoners in the induction area of jails.

**Severely Disabled Premium** — Compensation to school instructional aides who are routinely and consistently assigned to work with severely disabled students.

**Sewer Crew Premium** — Compensation to laborers who are routinely and consistently assigned to repair and maintain sewer systems.

**Shift Differential** — Compensation to employees who are routinely and consistently scheduled to work other than a standard “daytime” shift, e.g. graveyard shift, swing shift,

shift change, rotating shift, split shift or weekends.

**Solo Patrol Premium** — Compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to patrol alone in vehicles.

**Sprinkler and Backflow Premium** — Compensation to groundskeepers who are routinely and consistently assigned to repair large sprinkler head controllers, valves and backflow prevention devices.

**Tiller Premium** — Compensation to local firefighters who are routinely and consistently assigned to operate the tiller on an aerial ladder.

**Tire Technician Premium** — Compensation to equipment attendants who are routinely and consistently assigned to work on heavy duty tires, e.g. for buses and large construction equipment.

**Traffic Detail Premium** — Compensation to employees who are routinely and consistently assigned to direct traffic.

**Training Premium** — Compensation to employees who are routinely and consistently assigned to train employees.

**Tree Crew Premium** — Compensation to maintenance workers who are routinely and consistently assigned to remove, prune, or otherwise care for trees.

**Utility Meter Premium** — Compensation to miscellaneous employees who are routinely and consistently assigned to re-read utility meters, repair or set and install meters.

**Utilities Systems Operation Premium** — Compensation to maintenance or carpenter employees who are routinely and consistently assigned to planner duties in the maintenance division.

**Water Certification Premium** — Compensation to miscellaneous employees who are routinely and consistently assigned to test local water quality for compliance with governmental health standards.

(5) STATUTORY ITEMS

**Fair Labor Standards Act (FLSA) —**

Compensation paid for normal full-time work schedule including premium pay required by FLSA. For example, a firefighter's normal work schedule is 56 hours per week. FLSA states premium pay must be paid on all hours worked above 53 hours per week up to what is considered normal for employees on a full-time basis. In this example, the firefighter works 56 hours in a normal work week. Therefore, compensation would be reported for 53 hours per week and FLSA premium pay would be reported for 3 hours per week. Any work performed above 56 hours per week would be considered overtime and would not be reported to CalPERS.

**Holiday Pay —** Additional compensation for employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays. If these employees are paid over and above their normal monthly rate of pay for approved holidays, the additional compensation is holiday pay and reportable to CalPERS.

For those employees with written labor agreements providing holiday credit and allowing employees to cash out accumulated holiday credit, the cash out must be done at least annually and reported in the period earned.

If a written labor agreement allows an employee to accumulate holiday credit beyond the year in which it is earned and an employee later elects to cash out accumulated holiday credit, it is not compensation for CalPERS purposes.

If an employee utilizes the cash out option only during his/her final compensation period, it will be considered final settlement pay and excluded from reportable compensation.

If the cash out option is also utilized near his/her final compensation period, it may still be excluded based upon a review of the contracting agency or school employer's experience relating to: the number of employees in the group with this option; the number of employees who exercise this option; the frequency with which employees exercise this option; whether or not the cash out is paid periodically, and in a manner that is historically consistent; and whether or not the cash out would create an unfunded liability over and above CalPERS

actuarial assumptions. This review will be conducted by CalPERS on a case-by-case basis.

**Uniform Allowance —** Compensation paid or the monetary value for the purchase, rental and/or maintenance of required clothing, including clothing made from specially designed protective fabrics, which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This excludes items that are solely for personal health and safety such as protective vests, pistols, bullets, and safety shoes.

**NOTE:**

If in doubt as to whether an item of compensation is reportable to CalPERS, submit a copy of the memorandum of understanding, union contract, or other supporting documentation to the Customer Account Services Division, Compensation and Employer Review Unit, for a determination.

## 571 (b) — CALIFORNIA CODE OF REGULATIONS CRITERIA

(b) The Board has determined that all items of special compensation listed in subsection (a) are:

1. Contained in a written labor policy or agreement;
2. Available to all members in the group or class;
3. Part of normally required duties;
4. Performed during normal hours of employment;
5. Paid periodically as earned;
6. Historically consistent with prior payments for the job classification;
7. Not paid exclusively in the final compensation period;
8. Not final settlement pay; and,
9. Not creating an unfunded liability over and above CalPERS actuarial assumptions.

### NOTE:

Special Compensation items must meet definitions listed in CCR 571 (a) as well as the criteria outlined in CCR 571 (b) to be reported to CalPERS.

(c) Only items listed in CCR 571 (a) have been affirmatively determined to be special compensation. All items of special compensation reported to CalPERS will be subject to review for continued conformity with all of the standards listed in CCR 571 (b).

(d) If an item of special compensation reported for a member is not listed in CCR 571 (a) or is out of compliance with any of the standards in CCR 571 (b) as reported for an individual, then it shall not be used to calculate the final compensation for that individual.

## EMPLOYERS PAYING MEMBER CONTRIBUTIONS

State and federal statutes provide various provisions for paying and reporting member contributions. Below are five provisions, a brief description of each and requirements to implement any of the five. Samples of all five resolutions are located later in this section.

### PAYMENT OF MEMBER CONTRIBUTIONS

A contracting public agency or school employer may pay all or a portion of the normal contributions required to be paid by members of a group or class. This is called Employer Paid Member Contributions (EPMC). If an individual is not part of a group or class, the agency must pay EPMC for the closest related group or class in order to pay EPMC for the individual. Determinations for “group of one” and closest related group are made on a case-by-case basis by the Customer Account Services Division, Compensation and Employer Review Unit. For this option a resolution is required (see Sample A). A copy should be sent to:

#### CalPERS

Customer Account Services Division  
Compensation and Employer Review Unit  
P.O. Box 942709  
Sacramento, CA 94229-2709

An example of reporting contribution codes can be found in the payroll section.

### CALIFORNIA CODE OF REGULATIONS (CCR) SECTION 569

Under payment of member contributions with time in-grade, an employer may implement a cumulative “time-in-grade exception” for newly-hired employees upon the election by a contracting agency or school employer for the payment of normal member contributions (Employer Paid Member Contributions - EPMC) based on compensation within the pertinent group or class. To elect the “time-in-grade exception,” the employer’s governing body must adopt a resolution (see Sample B) or ordinance that specifies the “time-in-grade” schedule and group or class involved. The “time-in-grade exception” cannot take effect until after the resolution or ordinance has been reviewed and approved by CalPERS.

To be classified as “newly hired”, a member of the group or class must not have been previously hired or retained by the employer in any capacity.

### PAYING AND REPORTING THE VALUE OF EPMC

Effective July 1, 1994, under G.C. section 20636(c) and California Code of Regulations Section 571 (a) (1), an employer has the option of reporting the value of Employer Paid Member Contributions (EPMC) to CalPERS as special compensation. This provision must be adopted and applied equally to everyone in a group or class of employment. If an individual is not part of a group or class, the agency must pay and report the value of EPMC for the closest related group in order to pay and report the value of EPMC for the individual. Determinations for “group of one” and closest related group are made on a case-by-case basis by the Customer Account Services Division, Compensation and Employer Review Unit.

Should an agency decide to report the value of EPMC, it would need to comply with the following items:

1. Each written labor policy or agreement must acknowledge the fact that the employer is paying and reporting the value of EPMC for everyone in that group or class.
2. The governing board must pass a Resolution utilizing language similar to Sample C.
3. The Resolution must be sent to the Compensation and Employer Review Unit and written confirmation of compliance will be returned to the employer.
4. The amount (percent) of EPMC being paid by the employer is the value (amount) that must be reported as special compensation.
5. The value of EPMC must be reported on all compensation, i.e., pay rate and special compensation. Do not report the value of EPMC on the value of EPMC under G.C. section 20636(c)(4). This avoids the perpetual loop of reporting the value of EPMC on the previous value of EPMC.

**NOTE:**

School districts may negotiate for this provision on a district by district basis. It does not have to apply to all districts under the County Office of Education.

Reporting the value of EPMC should not affect the calculations the agency makes for overtime or other special payments employees receive as a factor of base salary. Reporting the value of EPMC is not subject to state and federal income taxes, nor Social Security and Medicare taxes. However, since there is no case or ruling directly related to Social Security and Medicare, affected employers should consider seeking a ruling from the Internal Revenue Service on this issue.

The cost of reporting the value of EPMC will be an increase in the agency's employer and employee contributions due to the increased earnings reported. There could also be an increase to the employer's rate similar to increases associated with comparable pay rate increases for groups of employees. The cost for this provision is expected to be the same as the cost of converting EPMC to salary in the final compensation period.

The cost is paid in a different manner, i.e., if the additional compensation increases an employee's retirement allowance by \$100.00 per month under either method, CalPERS will collect the same amount of money from member and employer contributions to pay for that benefit.

## **PAYING AND REPORTING THE VALUE OF EPMC WITH TIME IN GRADE**

Under the CCR Section 571 regulation, an employer may implement a cumulative "time-in-grade exception" for newly-hired employees for contracting agency or school employers to pay and report the value of EPMC as an item of "special compensation" within the pertinent group or class. To elect the "time-in-grade exception," the employer's governing body must adopt a resolution (see Sample D) that specifies the "time-in-grade" schedule and group or class involved. The "time-in-grade exception" cannot take effect until after the resolution has been reviewed and approved by CalPERS. To be classified as "newly hired", a member of the group or class must not have been previously hired or retained by the employer in any capacity.



## REPORTING THE VALUE OF EPMC

The example below demonstrates the method to report the value of EPMC on compensation earnable. The employee in this example has \$5,000.00 in regular earnings and a special compensation entry of \$50.00 for Uniform Allowance. The member contribution rate in this example is 7% (shown as or expressed as .0700%). The last entry with a pay code 09 (special compensation), pay rate of \$353.50, earnings of \$353.50, and \$24.75 in contributions illustrates reporting the value of EPMC as a separate payroll entry:

Type of Payroll Entry	Month/Year/Service Period Type	Pay Code	Pay Rate	Earnings	Member Contribution Rate	Member Contributions
Normal Payroll Entry	10/08/0	01	\$5,000.00	\$5,000.00	.0700	\$350.00
Special Compensation Entry	10/08/0	09	\$50.00	\$50.00	.0700	\$3.50
Reporting the Value of EPMC	10/08/0	09	\$353.50	\$353.50	.0700	\$24.75
				\$5,403.50		\$378.25

Please direct your questions to:

**CalPERS**

Customer Account Services Division  
Compensation and Employer Review Unit  
P.O. Box 942709  
Sacramento, CA 94229-2709

**CONVERTING EPMC TO PAY RATE IN THE  
FINAL COMPENSATION PERIOD  
(CONTRACT AMENDMENT METHOD)**

The conversion of EPMC to pay rate in an employee's final compensation period is the only conversion provision allowed in the Public Employees' Retirement Law (PERL). To contract for this provision, an employer must have a resolution on file for EPMC. This provision must be adopted and applied equally to everyone in a group or class of employment. If an individual is not part of a group or class, the agency must adopt this provision for the closest related group or class in order to convert EPMC to pay rate for the individual. Determinations for "group of one" and closest related group are made on a case-by-case basis by the Customer Account Services Division, Compensation and Employer Review Unit.

G.C. section 20692, effective July 1, 1994, provides:

"(a) Where a contracting agency employer or a school employer has elected to pay all or a portion of the normal contributions of members of a group or class of employment pursuant to G.C. section 20691, the employer may, pursuant to a labor policy or agreement, stop paying those contributions during the final compensation period applicable to the members and, instead, increase the pay rate of the members by an amount equal to the normal contributions paid by the employer on behalf of the employees in the pay period immediately prior to the final compensation period or increase the pay rate of the members by an amount established by a labor policy or agreement in existence and in effect on June 30, 1993. That amount shall not exceed the amount of the normal member contributions that are required to be paid by the members."

For more information or questions, please refer to the California Code of Regulations, Section 566.1., found in the PERL or you may contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Should an agency decide to stop paying members' contributions in the final compensation period and instead increase the pay rate by an equal amount, it would need to comply with the following:

1. Request a valuation from the Public Agency Contract Services Unit and follow their contract amendment procedures for this provision.
2. Include the provision in each written labor policy or agreement adopting this provision. The amount of EPMC converted to pay rate must be the same amount (percent) of EPMC being paid by the employer unless there is a written labor agreement still in effect that was adopted prior to June 30, 1993 allowing the conversion of a smaller amount of EPMC than what is being paid.
3. Stop paying the member's contribution in the final compensation period and give a pay increase for all purposes. This is not just reporting the value of EPMC in the final compensation period.
4. The conversion of EPMC must be on all compensation (i.e., pay rate and special compensation).

After an agency amends its contract with CalPERS to provide this conversion, the new employer rate is effective the same day the amendment is effective. All employees in a group or class must be treated the same and there can be no "election" on the part of individual employees to convert EPMC to pay rate in the final compensation period. The conversion would be allowed from the effective date of the contract amendment and cannot be reported prior to the contract amendment effective date.

If an employee only gives two weeks notice of retirement, the agency must retroactively adjust and report payroll for the conversion in the full final compensation period (for any final compensation period after the effective date of the contract amendment). If an employee cancels a retirement date, the agency can reverse the entries for the conversion but must commence the conversion again in the new final compensation period. An example of reporting contribution codes can be found later in this section.

**NOTE:**

Individual school districts cannot amend for this provision. All districts in a County Office of Education must amend for this provision by passing a resolution. After all districts have passed a resolution, the County Office of Education may amend its contract to convert EPMC to pay rate in the final compensation period.

**TAX-DEFERRING THE MEMBER-PAID CONTRIBUTIONS  
INTERNAL REVENUE CODE SECTION  
414(h)(2)**

**EMPLOYER PICK-UP**

A benefit that employers can provide to their employees at no cost to the employer or employee is Internal Revenue Code (IRC) Section 414(h)(2), Employer Pick-Up.

Under this provision, employees pay their own member contributions from reportable compensation and defer state and federal income taxes on the member contributions. The Employer Pick-Up allows employees' contributions to be treated as employer contributions for federal and state tax purposes, thus lowering the employees' taxable gross income.

The amount reported to the Internal Revenue Service is reportable compensation less the member contributions. Federal and state taxes on the amount of contributions are postponed until distribution either through a retirement allowance or a lump sum payment (refund). All supplemental pay that is based upon employees' salary, such as overtime, will be computed on the employees' original gross salary (base pay including the member contributions). There is no increase in the member's pay rate reported to CalPERS when reporting tax-deferred member contributions under Internal Revenue Code (IRC) Section 414(h)(2).

To implement this provision, the employer's duly authorized board of trustees must adopt the appropriate resolution for the affected group or class of employees (Sample E Resolution). Once the resolution is adopted, contributions for all employees in the affected group or class must be reported to CalPERS on a tax-deferred basis. Employees may not elect Employer Pick-Up on an individual basis.

Copies of all resolutions for member contributions should be sent to:

**CalPERS**

Customer Account Services Division  
Compensation and Employer Review Unit  
P.O. Box 942709  
Sacramento, CA 94229-2709

For more information, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

**PRE-TAX PAYROLL DEDUCTION PLAN (A.K.A. PLAN) FOR SERVICE CREDIT PURCHASE(S)**

By filing a Resolution (see Sample F) with CalPERS, employers are allowed to extend the pick-up of member contributions under Internal Revenue Code (IRC) Section 414(h)(2) provisions for member payments by payroll deductions for service credit purchases. Individual employers who opt to participate in this “pick-up” program provide their employees, who elect to participate, with the benefit of deferring income tax liability on member service credit purchases.

County Superintendents of Schools need submit only one Resolution which will cover all the districts/units within that superintendent's jurisdiction. The effective date for commencement of the Plan cannot be any earlier than the date the completed resolution is received and approved by CalPERS.

**PLAN RESTRICTIONS/REQUIREMENTS**

**EMPLOYER**

1. The employer must file with CalPERS a completed original of the resolution to allow their employees to participate in the Plan.
2. The wording of the resolution cannot be altered.
3. The resolution applies to all employees in the specified classification groups (i.e. miscellaneous, safety, etc) or coverage groups (i.e. 70001, 70002, 74001, 75001, etc.).
4. Upon receipt of an approval letter from CalPERS, the employer must also complete the “Readiness to Report” form. This form

certifies that their payroll system can concurrently report both Contribution Code 04 (after tax) and Contribution Code 14 (pre-tax) payroll deductions for any employee with multiple service credit elections.

5. Pre-tax payroll deductions (Code 14) must not be reported by the employer until the member has elected the Plan. For each electing member, CalPERS will send a payroll deduction authorization form specifying their effective date of Contribution Code 14 reporting. IRS does not allow retroactive deductions.
6. The employer is responsible for reducing the taxable income of a member by the pre-tax payroll deduction amount.
7. Pre-tax deductions will be completed through the payroll reporting process using Code 14 instead of Code 04. Both contributions and contribution codes should be reported in the Tax-deferred Member Contribution fields instead of the Normal Member Contribution fields.
8. If an employee has more than one service credit purchase authorization, each authorization must be reported as separate entries.
9. The employer may report both codes and contributions through a manual process by submitting Supplemental Payroll documents on an interim basis until their payroll system can incorporate both the code and contribution on a pre-tax basis for each employee.
10. Overpayments must be reported as negative adjustments through the payroll reporting process. The employer will be responsible for returning such funds to the member as taxable income.
11. The employer is responsible for ALL payroll corrections (including W-2 reporting) for the member.
12. The employer will report payroll deductions for service credit purchases for members who choose NOT to elect the Plan on an after-tax basis (Code 04).
13. Once the Plan Resolution is adopted, it is irrevocable.

**MEMBER**

1. Upon approval of the employer/CalPERS resolution, the member has the option to file a binding irrevocable election with CalPERS to elect the Plan for each type of service credit purchase.
2. Members with an existing (Code 04) receivable who are not within 90 days of retirement or do not have a delinquent status on their receivable account will be notified by CalPERS of their opportunity to elect the Plan.
3. Members requesting service credit purchase(s) will be provided the pre-tax election opportunity (if the employer is a Plan participant and the member's group or class is covered under the resolution) with their cost information letter.
4. The Plan amount and time period are irrevocable and cannot be adjusted or discontinued at any time during the payroll deduction schedule.
5. The deductions are member contributions and are subject to income taxes when received by the member as either a retirement benefit or refund.
6. A member who elects the Plan deductions then changes employers will automatically continue pre-tax payroll deduction payments if the new employer is a Plan participant. If the new employer does not have a resolution on file with CalPERS, the deductions will be taken on an after-tax basis.
7. A member who elects the Plan is not allowed to make additional direct cash payments (i.e., lump sum, partial payments, or increased scheduled payments).
8. A member who elects the Plan and terminates employment will be given the option to pay the lump sum balance or continue payments on an after-tax basis through Direct Payments to CalPERS.
9. A member who elects the Plan and retires may request to pay the lump sum balance. If no request is made, payments will continue through retirement allowance deductions as after-tax deductions.
10. Electing the Plan will reduce the taxable gross and may lower the amount the member can contribute into a defined contribution plan. It is the member's responsibility to determine the potential impact prior to electing the Plan.
11. Once pre-tax deductions are elected, it is irrevocable unless #6 or #8 above applies.

For more information contact:

**CalPERS**

Customer Account Services Division  
Service Credit Section, Unit 830  
P.O. Box 942704  
Sacramento, CA 94229-2704

Or contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

RESOLUTION FOR EPMC

**Sample A**

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS**

WHEREAS, the governing body of the **[NAME OF AGENCY]** has the authority to implement G.C. section 20691;

WHEREAS, the governing body of the **[NAME OF AGENCY]** has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer;

WHEREAS, one of the steps in the procedures to implement G.C. section 20691 is the adoption by the governing body of the **[NAME OF AGENCY]** of a Resolution to commence said Employer Paid Member Contributions (EPMC);

WHEREAS, the governing body of the **[NAME OF AGENCY]** has identified the following conditions for the purpose of its election to pay EPMC:

- This benefit shall apply to all employees of **[MEMBERSHIP CATEGORY]** OR **[GROUP OR CLASS]**
- This benefit shall consist of paying **[PERCENT]** of the normal member contributions as EPMC.
- The effective date of this Resolution shall be **[DATE]**.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the **[NAME OF AGENCY]** elects to pay EPMC, as set forth above.

BY

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Title of Official)

\_\_\_\_\_  
(Date adopted and approved)



RESOLUTION FOR EPMC WITH TIME-IN-GRADE EXCEPTION

**Sample B**

**RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS WITH TIME-IN-GRADE EXCEPTION**

WHEREAS, the governing body of the **[NAME OF AGENCY]** has elected\* to pay all or a part of the normal member contributions to the California Public Employees' Retirement System (CalPERS) pursuant to G.C. section 20691, and applicable labor policies or agreements;

WHEREAS, the governing body of the **[NAME OF AGENCY]** may elect a time-in-grade Exception to said Employer Paid Member Contributions (EPMC) within a given group or class of employees as defined in Government Code Section 20636(e)(1) and as specifically authorized in Title 2, California Code of Regulations Section 569;

WHEREAS, the governing body of the **[NAME OF AGENCY]** has identified the following conditions for the application of said Exception:

- This exception shall apply to all employees of **[MEMBERSHIP CATEGORY] OR [GROUP OR CLASS]**.\*\*
- **[NAME OF AGENCY]** elects to pay % for all current employees.
- For employees hired after (Date) , the (Name of Agency) will pay EPMC according to the following time-in-grade schedule:

Year **[YEAR]** at **[PERCENT]** %.\*\*\*  
(cannot be prior to the effective date of this resolution).

- Once a newly-hired employee accrues five (5) years of total service (either on a continuous or cumulative basis), s/he shall be entitled to payment of EPMC on the same terms that apply to all other employees in the group or class. In so resolving, the governing body of the (Name of Agency) agrees to abide by Section 569, the terms of which are incorporated-by-reference as if fully set forth herein.
- The effective date of this Resolution shall be **[DATE]**.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the **[NAME OF AGENCY]** elects a time-in-grade Exception as set forth above.

BY

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Title of Official)

\_\_\_\_\_  
(Date adopted and approved)

\*Note: This sample Resolution is designed as an amendment to a pre-existing Resolution to pay EPMC (see Sample Resolution A). In the alternative, a governing body of a public agency may incorporate the terms of this sample Resolution into the Resolution by which it initially elects to pay EPMC (i.e., if there is no pre-existing Resolution A).

\*\*Note: This Exception may be elected for any or all of the groups or classes of employees on whose behalf a public agency has elected to pay EPMC.

\*\*\*Note: Employer may add additional steps; however, the five (5) year requirement remains.

RESOLUTION FOR PAYING AND REPORTING THE VALUE OF EPMC

**Sample C**

**RESOLUTION FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS (EPMC)**

WHEREAS, the governing body of the **[NAME OF AGENCY]** has the authority to implement Government Code Section 20636(c)(4) pursuant to G.C. section 20691;

WHEREAS, the governing body of the **[NAME OF AGENCY]** has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation;

WHEREAS, one of the steps in the procedures to implement G.C. section 20691 is the adoption by the governing body of the **[NAME OF AGENCY]** of a Resolution to commence paying and reporting the value of said Employer Paid Member Contributions (EPMC); pursuant to CCR title 2 section 571(a)(1).

WHEREAS, the governing body of the **[NAME OF AGENCY]** has identified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all employees of **[GROUP OR CLASS]**.
- This benefit shall consist of paying **[PERCENT]** of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable\* (excluding Government Code Section 20636(c)(4)) as additional compensation.
- The effective date of this Resolution shall be **[DATE]**.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the **[NAME OF AGENCY]** elects to pay and report the value of EPMC, as set forth above.

BY

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Title of Official)

\_\_\_\_\_  
(Date adopted and approved)

\*Note: Payment of EPMC and reporting the value of EPMC on compensation earnable is on pay rate and special compensation except special compensation delineated in Government Code Section 20636(c)(4) which is the monetary value of EPMC on compensation earnable

RESOLUTION FOR PAYING AND REPORTING THE VALUE OF EPMC WITH TIME-IN-GRADE EXCEPTION

**Sample D**

**RESOLUTION FOR PAYING AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS  
WITH TIME-IN-GRADE EXCEPTION**

WHEREAS, the governing body of the **[NAME OF AGENCY]** has elected\* to pay and report the value of all or a part of the normal member contributions to the California Public Employees' Retirement System (CalPERS) pursuant to Government Code Sections 20636 (c)(4) and 20691, and applicable labor policies or agreements;

WHEREAS, the governing body of the **[NAME OF AGENCY]** may elect a time-in-grade Exception to said Employer Paid Member Contributions (EPMC) within a given group or class of employees as defined in Government Code Section 20636(e)(1) and as specifically authorized in Title 2, California Code of Regulations (CCR) Section 571;

WHEREAS, the governing body of the **[NAME OF AGENCY]** has identified the following conditions for the application of said Exception:

- This Time-in-Grade Exception shall apply to all employees of **[GROUP OR CLASS]**.\*\*
- **[NAME OF AGENCY]** elects to pay **[PERCENT]** for all current employees.
- For employees hired after **[DATE]**, the **[NAME OF AGENCY]** will, pursuant to Title 2, California Code of Regulations Amended Section 571, pay and report the value of EPMC according to the following time-in-grade schedule:  
Year **[YEAR]** at **[PERCENT]**.\*\*\*  
(cannot be prior to the effective date of this resolution).
- Once a newly-hired employee accrues five (5) years of total service (either on a continuous or cumulative basis), s/he shall be entitled to payment of EPMC on the same terms that apply to all other employees in the group or class. In so resolving, the governing body of the **[NAME OF AGENCY]** agrees to abide by CCR Section 571, the terms of which are incorporated-by-reference as if fully set forth herein.
- The effective date of this Resolution shall be **[DATE]**.

WHEREAS, the governing body of the **[NAME OF AGENCY]** acknowledges that the adoption of this Resolution may result in an upward adjustment of its employer contribution rate;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the **[NAME OF AGENCY]** elects a time-in-grade exception, as set forth above.

BY

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Title of Official)

\_\_\_\_\_  
(Date adopted and approved)

\*Note: This sample Resolution is designed as an amendment to a pre-existing Resolution to pay and report EPMC (see Sample Resolution C). In the alternative, a governing body of a public agency may incorporate the terms of this sample Resolution into the Resolution by which it initially elects to pay and report EPMC (i.e., if there is no pre-existing Resolution C).

\*\*Note: This Exception may be elected for any or all of the groups or classes on whose behalf a public agency has elected to pay and report EPMC.

\*\*\*Note: Employer may add additional steps; however, the five (5) year requirement remains.

RESOLUTION TO TAX DEFER MEMBER PAID CONTRIBUTIONS - IRC 414(h)(2)

**Sample E**

**EMPLOYER PICK-UP**

WHEREAS, the governing body of the **[NAME OF AGENCY]** has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the **[NAME OF AGENCY]** has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to **[ALL EMPLOYEES, OR ALL EMPLOYEES IN A RECOGNIZED GROUP OR CLASS OF EMPLOYMENT]** who are members of the California Public Employees' Retirement System:

NOW, THEREFORE, BE IT RESOLVED:

- I. That the **[NAME OF AGENCY]** will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code section 20691 to the California Public Employees' Retirement System on behalf of all its employees or all its employees in a recognized group or class of employment who are members of the California Public Employees Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.
- II. That the contributions made by the **[NAME OF AGENCY]** to the California Public Employees' Retirement System, although designated as employee contributions, are being paid by the **[NAME OF AGENCY]** in lieu of contributions by the employees who are members of the California Public Employees' Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the **[NAME OF AGENCY]** to the California Public Employees' Retirement System.
- IV. That the **[NAME OF AGENCY]** shall pay to the California Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the **[NAME OF AGENCY]** to the California Public Employees' Retirement System on behalf of an employee shall be the entire contribution required of the employee by the California Public Employees' Retirement Law (California Government Code Sections 20000, et seq.).

VI. That the contributions designated as employee contributions made by **[NAME OF AGENCY]** to the California Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the California Public Employees' Retirement System.

PASSED AND ADOPTED by the governing body of the \_\_\_\_\_ **[NAME OF AGENCY]** this day of **[DATE]**, **[YEAR]**.

BY

\_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Title of Official)

RETURN ADDRESS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



RESOLUTION TO TAX DEFER SERVICE CREDIT PURCHASES

Sample F

Return to CalPERS - Unit 830

Employer code: \_\_\_\_\_

**EMPLOYER PICKUP RESOLUTION  
PRE-TAX PAYROLL DEDUCTION PLAN  
FOR SERVICE CREDIT PURCHASES  
(CONTRIBUTION CODE 14)**

WHEREAS, the Board of Administration of the California Public Employees' Retirement System (CalPERS) at the April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) section 414(h)(2); and

WHEREAS, the \_\_\_\_\_ Name of Employer has the authority to implement the provisions of IRC section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

WHEREAS, the \_\_\_\_\_ Name of Employer elects to participate in the pre-tax payroll deduction plan for all employees in the following CalPERS Coverage Group(s):

Enter Membership Coverage Group(s) here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED:

I. That the \_\_\_\_\_ Name of Employer will implement the provisions of IRC Section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan. "Employee contributions" shall mean those contributions reported to CalPERS which are deducted from the salary of employees and are credited to individual employee accounts for service credit purchases, thereby resulting in tax deferral of employee contributions.

II. That the contributions made by the \_\_\_\_\_ Name of Employer to CalPERS, although designated as employee contributions, are being paid by the \_\_\_\_\_ Name of Employer in lieu of contributions by the employees who are members of CalPERS.

III. That the employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the \_\_\_\_\_ Name of Employer to CalPERS.

IV. That the \_\_\_\_\_ **Name of Employer** \_\_\_\_\_ shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.

V. That the effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than the date the completed resolution is received and approved by CalPERS.

VI. That the governing body of the \_\_\_\_\_ **Name of Employer** \_\_\_\_\_ shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre-tax payroll deductions when authorized by CalPERS for those employees of the above stated Coverage Group(s) who have elected to participate in this plan.

**PASSED AND ADOPTED** by the governing body of the \_\_\_\_\_ **Name of Employer** \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Day Month Year

BY \_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Title of Official)

**RETURN ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

**FOR CALPERS USE ONLY**

**Pre-tax payroll deduction plan effective date:** \_\_\_\_\_

**Approved By:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**CUSTOMER ACCOUNT SERVICES DIVISION, Service Credit Section-Unit 830**

## COMPENSATION LIMITS

### COMPENSATION LIMITS (IRC SECTION 401(a)(17))

Section 401(a)(17) of the Internal Revenue Service Code provides dollar limitations on annual compensation that can be taken into account under qualified retirement plans. CalPERS notifies all employers of the new limits each year in January by sending a Circular Letter. The employer should notify those employees who reach the compensation limit.

The compensation limit is only applicable to persons who first became members or participants of California Public Employees' Retirement System (CalPERS) on or after July 1, 1996.

For those members who are subject to the limit, their final compensation will be capped at the limit in effect for each 12 consecutive-month period that is used to calculate their allowance if they were to retire. For example, the compensation limit for 2008 is \$230,000. Therefore, the member should not make contributions on earnings that exceed the \$230,000 limit within the 2008 calendar year. The earnings that are mentioned are those earnings that are reportable to CalPERS, which exclude earnings for overtime, automobile allowances, lump sum payouts, etc. The compensation limit does not limit the salary an employer can pay an employee who is a member of CalPERS.

If an employee's compensation reaches the limit, the employer should do the following:

- Send a notice to the following address indicating the member's name, Social Security Number and service period in which the employee's compensation first exceeded the limit:

**CalPERS**

Customer Account Services Division  
Attn: Payroll Manager  
P.O. Box 942709  
Sacramento, CA 94229-2709

- Continue reporting Pay Code, Pay Rate, Member Earnings and a Contribution Code 01, but no member contributions for the periods that remain in the calendar year. Reporting the contribution code 01 allows the employee to continue earning service credit without making contributions on earnings that exceed the limit. If code 11 is used instead of 01, then the member will not receive service credit. While the law limits employee contributions, employer contributions should still be paid on all earnings that are reported. If an employee's pay rate increases after the time you cease reporting contributions, please indicate the higher pay rate and earnings on your payroll transaction in case legislation were to change the original limits established for the year.
- Once the calendar year is over, resume reporting contributions for the employee and begin the monitoring for the new calendar year.
- If an employee has already reached the limit and the above has not been done, please use a CalPERS Contribution Code 02 or 12 to make a prior period contribution adjustment and reverse contributions for each period that was reported to CalPERS on earnings that exceeded the limit. Federal law does not allow CalPERS to refund over-reported contributions to an active member of the system. The employer must report these adjustments and refund the money to the employees.

At this time, employer monitoring of their employees' compensation is the only method CalPERS has to determine if limits are exceeded. CalPERS plans to incorporate an automated means to monitor employee compensation and identify those that exceed the limit in the new contribution reporting system that is currently being developed.